

ARKANSAS SUPREME COURT

No. CR 08-204

JAMES AL WHITE
Appellant

v

.

STATE OF ARKANSAS
Appellee

Opinion Delivered October 2, 2007

PRO SE MOTION FOR
TRANSCRIPT [CIRCUIT COURT
OF PULASKI COUNTY, CR 2004-
4080, HON. JOHN W. LANGSTON,
JUDGE]

APPEAL DISMISSED; MOTION
MOOT.

PER CURIAM

A jury found appellant James Al White guilty of exposing another person to Human Immuno-Deficiency Virus (“HIV”), rape, and fourth-degree sexual assault and sentenced him to an aggregate term of life plus 432 months’ imprisonment. This court affirmed the judgment. *White v. State*, 370 Ark. 284, ___ S.W.3d ___ (2007). Appellant timely filed a petition for postconviction relief under Arkansas Rule of Criminal Procedure 37.1, which was denied. Appellant lodged an appeal of that order in this court.

Appellant’s brief was due in this court on March 31, 2008. Appellant has not tendered a brief, nor has he filed a motion to file a belated brief. He did previously file motions requesting access to copies of the transcripts for cases in circuit court that were not included as a part of the record in this appeal, and that motion was denied. *White v. State*, CR 08-204 (Ark. May 1, 2008) (per curiam). The motion now before us appears to repeat, at least in part, the same request seeking materials not filed with this court and additionally seeks access to portions of the trial record. Appellant does not request permission to file a belated brief.

Appellant indicates that the materials he seeks are necessary so that he can comply with our rules of procedure to prepare his brief, yet he has not sought permission to file a belated brief, despite the fact that the deadline for filing his brief passed months ago. We note that appellant was previously advised that this court would not have materials concerning a circuit court case that resulted in a mistrial and was therefore not appealed. He continues to seek materials outside of the record in this case as essential to the preparation of his brief, despite the fact that this court may not consider matters outside of the record. *See Miles v. State*, 350 Ark. 243, 85 S.W.3d 907 (2002).

Appellant had ample opportunity to seek access to the record in this case before he filed the pending motion, and he has not sought permission to proceed with a belated brief to date. Because appellant has delayed prosecution of this appeal without good cause, and has not filed a request to file a belated brief, we dismiss the appeal. Because the appeal is dismissed, the motion is moot.

Appeal dismissed; motion moot.

Wills, J., not participating.